

MONDAY, NOVEMBER 30, 1998

Civil SUNSWEET GROWERS, INC.
No. v.
C028259 WATER SCTIENCE TECHNOLOGIES, INC. ET AL

BY THE COURT:

1. The petition for rehearing states that at the hearing of Octobewr 23, 1998, Justice Davis “agreed to reconsider the April 30, 1998 summary denial of appellants’ writ of error coram vobis.” (Pet., p.1) That assertion is incorrect. Justice Davis in fact told appellants’ counsel that *if* the court chose to revisit the issues raised by the writ, it would let counsel know. Justice Davis’ comments were in the context of this court denying a motion to *continue oral argument* which was made on the day of the hearing, without any prior notice to this court or opposing counsel.

2. ...

3. ...

Appellants’ petiton for rehearing is denied.

Dated: November 30, 1998

DAVIS, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C024654 EJAAN DUPREE MCCOY ET AL.

The judgment of conviction as to defendant Ejaan McCoy ony on counts 1, 2, and 4 are reversed unless the People accept a reduction of the convictions as follows: ...

As to defendant McCoy, the trial court is rodered to amendthe abstract of judgment to include the section 12022.7 enhancement and to forward a corrected copy to the Department of Correction. In all other respects, the judgment as to each defendant is affirmed.

HULL, J.

We concur: SIMS, Acting P.J.
 RAYE, J.

MONDAY, NOVEMBER 30, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. v.

C028247 KAREN S. WILSON

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: CALLAHAN, J.
PUGLIA, J.

Civil CHARLES SCOTT HUGHES (Not for Publication)

No. v.

C019165 BOARD OF ARCHITECTURAL EXAMINERS

The judgment is affirmed. The Board of Architectural Examiners is awarded its costs on appeal.

HULL, J.

We concur: SCOTLAND, Acting P.J.
PUGLIA, J.

Crim. THE PEOPLE (Not for Publication)

No. v.

C021979 ROOSEVELT JERMAINE COLEMEN ET AL.

McKinnie's conviction and sentence for conspiracy to commit second degree murder are reversed. In all other respects, the judgments are affirmed.

SCOTLAND, J.

We concur: SIMS, Acting P.J.
PUGLIA, J.

Civil PHILLIP LLEWELLYN (Not for Publication)

No. v.

C028382 LANDMARK BAPTIST CHURCH
CITY OF FOLSOM

The judgment is reversed. Appellants shall recover costs on appeal.

MORRISON, J.

We concur: SIMS, Acting P.J.
RAYE, J.

MONDAY, NOVEMBER 30, 1998 CONTINUED

Civil TERRY A SERAFINI (Certified for Partial Publication)

No. v.

C029422 SUPERIOR COURT OF ELDORADO COUNTY

SYED KHADIR

A peremptory writ of mandate shall issue directing the superior court to vacate its ruling denying the motion to quash and to determine whether to continue the motion until resolution of the discovery dispute or grant the motion, applying the legal rules and guidelines set forth in this opinion.

The alternative writ is discharged. (CERTIFIED FOR PARTIAL PUBLICATION.)

BLEASE, Acting P.J.

We concur: DAVIS, J.
 MORRISON, J.

Crim. THE PEOPLE (Not for Publication)

No. v.

C027651 JOHNNY JOSEPH BETTENCOURT

The judgment is affirmed.

SCOTLAND, Acting P.J.

We concur: RAYE, J.
 HULL, J.

Civil CITY COUNCIL OF THE CITY OF FOLSOM ET AL

No. v (Not for Publication)

C024384 BOARD OF EDUCATION ET AL.

FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT

The judgment is affirmed. Respondents shall recover their costs on appeal.

RAYE, J.

We concur: BLEASE, Acting P.J.
 DAVIS, J.

MONDAY, NOVEMBER 30, 1998 CONTINUED

Civil CITY OF SOUTH LAKE TAHOE
No. v. (Not for Publication)
C026775 DAYLIGHT CONSTRUCTION INC.

The judgment is reversed. The cause is remanded to the superior court for a new trial to be limited to each party's breach of contract claims against the other, and to be conducted in a manner consistent with the views stated herein. The City shall recover costs on appeal. ni

CALLAHAN, J.

We concur: SIMS, Acting P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C0291058 DON HAROLD LONGWOOD

The remanded to the superior court with directions for the court to impose an order of restitution pursuant to Penal Code section 1202.4. In all other respects, the judgment is affirmed.

BLEASE., Acting P.J.

We concur; RAYE, J.
 CALLAHAN, J.

Civil MARIE R. PETERSEN
No. v.
C027588 CALIFORNIA STATE COUNCIL ET AL.
BY THE COURT:

Respondents' request to publish the opinion filed on October 28, 1998, is denied.

Dated: November 30, 1998

DAVIS, Acting P.J.

Civil DEAN R. FALLTRICK
No. v.
C025629 EQUITABLE LIFE ASSURANCE SOCIETY, ETC.
BY THE COURT:

Respondent's request to publish the opinion filed on October 28, 1998, is denied.

Dated: November 30, 1998

SCOTLAND, Acting P.J.

TUESDAY, DECEMBER 1, 1998

NO MINUTES FOR THIS DAY

WEDNESDAY, DECEMBER 2, 1998

Civil In re the TRUST of JAMES BERTRAM MCADAMS
No. JOYCE L. WHITTLESEY
C028847 v.

DORIAM M. AIELLO
TOM THOMSON

Civil JOYCE L. WHITTLESEY
No. v.
C030809 DORIAN M. AIELLO

TOM THOMPSON
BY THE COURT:

The motion of appellant Aiello for consolidation of the above cases is granted. The cases are ordered consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Appellant Aiello's combined opening brief and appendix is due on or before December 30, 1998; appellant Thomson's combined opening brief and appendix is due on or before February 1, 1999.

Dated: December 2, 1998

BLEASE, Acting P.J.

THURSDAY, DECEMBER 3, 1998

103177-98

THE HONORABLE ROBERT K. PUGLIA, Retired Presiding Justice of the Court of Appeal, Third Appellate District, is hereby assigned to assist the Court of Appeal, Third Appellate District, as a justice thereof, on the following date(s):

November 23, 1998 To February 23, 1999

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

Dated: November 23, 1998

RONALD M. GEORGE
Chief Justice of California
and Chairperson of the
Judicial Council

Crim. THE PEOPLE (Not for Publication)

No. v.

C029022 SHELDON RAY NEWSOME

The judgment is affirmed.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
RAYE, J.

Juvenile In re ALTHEA B., a Person Coming Under the Juvenile Court Law.

No. DEPARTMENT OF HEALTH AND HUMAN SERVICES

C028665 v. (Not for Publication)

MYRA B.

The judgment is reversed.

BLEASE, Acting P.J.

We concur: RAYE, J.
MORRISON, J.

THURSDAY, DECEMBER 3, 1998 CONTINUED

Civil MARTIN GARZA (Not for Publication)

No. v.

C029722 SUPERIOR COURT OF MONO COUNTY
RONALD KAYLOR

Let a peremptory writ of mandate issue directing respondent court to set aside its order granting defendant's motion for summary adjudication of the second cause of action, and to issue a new and different order denying said motion. Upon our decision becoming final, the stay of trial previously issued is dissolved. Costs to plaintiff.

BLEASE, Acting P.J.

We concur: DAVIS, J.
RAYE, J.

Civil PAUL J. MAMIKA (Certified for Publication)

No. v.

C027092 GINA BARCA, Trustee, etc.

The judgment is modified to reflect an award to plaintiff of \$6,923.10 in penalties pursuant to section 203. As modified, the judgment is affirmed. Plaintiff shall recover his costs on appeal. (CERTIFIED FOR PUBLICATION)

HULL, J.

We concur: NICHOLSON, Acting P.J.
PUGLIA, J.

Civil EDWARD CRUZ (Not for Publication)

No. v.

C026848 FANTASY INN NO. 1 ET AL.
L. MARK BISSONNETTE

The order is affirmed.

HULL, J.

We concur: DAVIS, Acting P.J.
SCOTLAND, J.

Civil KYLE OWEN HERRING (Not for Publication)

No. v.

C029567 DEPARTMENT OF MOTOR VEHICLES

The judgment is reversed. DMV shall recover its costs on appeal.

RAYE, J.

We concur: SIMS, Acting P.J.
DAVIS, J.

FRIDYA, DECEMBER 4, 1998

Juvenile No. C028907	<p>In re NICHOLAS C. THE PEOPLE v. NICHOLAS C. BY THE CORUT: Appellant's petition for rehearing is denied. Dated: December 4, 1998 SIMS, Acting P.J.</p>
Juvenile No. C028914	<p>In re ERIKA E. ET AL., Persons Coming Under the Juvenile Court Law. CHILDREN'S SERVICES DIVISION V. DAWN E. BY THE COURT: Appellant's petition for rehearing is denied. Dated: December 4, 1998 BLEASE, Acting P.J.</p>
Juvenile No. C029664	<p>In re OLIVIA L., a Person Coming Under the Juvenile Court Law. DEPARTMENT OF HEALTH AND HUMAN v. (Not for Publication) SALLY G. The orders of the juvenile court are affirmed. NICHOLSON, J. We concur: BLEASE, Acting P.J. SIMS, J.</p>
Civil No. C029128	<p>JOHN H. PHIPPS (Not for Publication) v. WORKERS' COMPENSATION APPEALS BOARD and FORREST BLUE PROPERTIES ET AL. The judgment (order denying reconsideration) is affirmed. SIMS, Acting P.J. We concur: NICHOLSON, J. PUGLIA, J.</p>